

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAJ CHRISTOPHER GUPTA,

Plaintiff,

No. CIV S-00-1095 GEB GGH P

vs.

C.A. TERHUNE, et al.,

Defendants.

ORDER

Plaintiff has requested the appointment of counsel. The United States Supreme Court has ruled that district courts lack authority under the in forma pauperis statute to require counsel to represent indigent plaintiffs in § 1983 cases. See Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989); 28 U.S.C. § 1915(e)(1). In certain exceptional circumstances, the court may appoint counsel. See Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).

In considering whether exceptional circumstances exist, the court must evaluate (1) the plaintiff's likelihood of success on the merits; and (2) the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. Terrell, 935 F.2d at 1017. In the present case, the court cannot conclude that plaintiff's likelihood of success, the complexity of the issues, or the degree of plaintiff's ability to articulate his claims amount to

1 exceptional circumstances justifying the appointment of counsel. Plaintiff's request for the
2 appointment of counsel will therefore be denied.

3 Accordingly, IT IS HEREBY ORDERED that plaintiff's October 6, 2005, motion
4 for the appointment of counsel is denied.

5 DATED: 10/24/05

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7 /s/ Gregory G. Hollows

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9 GREGORY G. HOLLOWS
10 UNITED STATES MAGISTRATE JUDGE

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